# LEGISLATION.

## THE NANJANAD VELLALA BILL (*Contd.*)

**DEPUTY PRESIDENT :** We will now proceed with the consideration of the Nanjanad Vellala Bill.

**MR. M. SUBRAHMANYA PILLAI** (*Agastiswaram*) : Sir, since last evening, the members of the Council had an informal meeting among themselves with a view to effect a settlement between the opposing views regarding the partition of *tarwad* property and I see that on a broad basis they have more or less come to the understanding that partition may be effected on the basis of one-half *per capita* and one-half *per stirpes*. I think this is the understanding reached by the Nanjanad Vellala members in consultation with some of the members of this Council. On this understanding, I beg leave of the Council to withdraw the motion.

**DEPUTY PRESIDENT :** You want to withdraw your amendment ?

**MR. M. SUBRAHMANYA PILLAI** (*Agastiswaram*) ; Yes. I also request the President to grant me at a later stage permission to put in another amendment embodying the compromise arrived at.

**DEPUTY PRESIDENT :** Is there any objection to accepting the withdrawal ? May I take it that the House permits Mr. M. Subrahmanya Pillai to withdraw his amendment ?

**MR. S. SUBRAHMANYA PILLAI** (*Co-opted*): മിസ്റ്റർ സുബ്രഹ്മണ്യപിള്ള പുതിയ സ്പെഷ്യ്കമ്മറ്റി വേണമെന്നുള്ള പ്രമേയത്തെ പിൻവലിക്കുന്നതായി പ്രസ്താവിച്ചു. തറവാട്ട സ്വത്തു നാളുവരെ പിതരാർജ്ജിതമായി കുടുംബത്തിലുള്ളതായ സ്വത്തുക്കൾ ഒക്കെ ചേർത്തു ഒന്നുപകുതി തായ്വഴിയായും ഒന്നുപകുതി ആത്മവീതമായും ആക്കുന്നതു ഞങ്ങളുടെ മതമാകത്തായ തത്വത്തിനു അടുത്തതല്ലെങ്കിലും ഞാനും ചില സ്നേഹിതന്മാരും ആലോചിച്ചു വഴക്കിനു ഇടവരാതിരിക്കണമെന്നുള്ള ഉദ്ദേശത്തോടുകൂടി അമൻറുമെൻറുകൊണ്ടുവന്നാൽ ഞാൻകൂടി അനുകൂലിക്കാമെന്നഭിപ്രായപ്പെടുന്നു.

**MR. M. VELU PILLAI** (*Co-opted*) : All the amendments he has given notice of are only in regard to the partition question.

**MR. G. PARAMESVARAN PILLAI** (*Neyyatinkara*) : I thought the withdrawal referred only to the amendments relating to partition.

**DEPUTY PRESIDENT :** We are only at the question of partition. The re-committal is mainly with regard to that.

**MR. A. K. PILLAI** (*Karunagapalli*) : Sir, in the meanwhile, may I know whether the agreement arrived at between two members is binding on the House ?

**DEPUTY PRESIDENT :** Certainly not ; because I understand that it will be put in as a fresh amendment and it will be subject to the sanction of the House or to any modification that the House may agree to. May I take it that the House permits him to withdraw his amendment ?

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The amendment was by leave of the House withdrawn.

The following amendment was not moved :

MR. M. SIVATANU PILLAI:

"The Bill be referred back to a fresh Select Committee."

**Clauses 1 and 2.**

**DEPUTY PRESIDENT**: We will now proceed with the Bill itself. I do not find any amendment to clauses 1 and 2. The question then is that clauses 1 and 2 do stand part of the Bill.

Clauses 1 and 2 as amended by the Select Committee were added to the Bill.

**Clause 3.**

**MR. G. RAMAN MENON** (*Mavelikara* cum *Kartikapalli*): Sir, I beg to move the following amendment to clause 3, line 3 :—

"*Add after the word 'usage' the words 'or by mutual consent of the parties evidenced by a registered deed.*"

The object of this amendment is to recognise a certain method of marriage which is now coming into vogue among most communities. When the Nair Regulation was passed, there was some agitation in the papers that, according to the Regulation, a marriage effected by a registered deed is not a valid marriage. But amongst the common people, a marriage entered into by means of a registered instrument is supposed to be even more valid than other marriages. That is the common notion ; and the communities concerned also are, so far as I am aware, recognising such marriages.

**DEPUTY PRESIDENT**: Does the Nair Regulation recognise that? (*Cries of "No, no."*)

**MR. G. RAMAN MENON** (*Mavelikara* cum *Kartikapalli*): I know of such cases in all castes. I think that even amongst Vellalas such marriages are not rare.

**MR. K. I. JOSEPH** (*Minachil* cum *Devicolam*): May I ask Mr. Raman Menon whether the Vellalas consider marriage as purely a contract or as a sacrament also?

**MR. G. RAMAN MENON** (*Mavelikara* cum *Kartikapalli*) ; So long as registered marriages are not rare amongst them, they are also, I think, recognised.

**MR. M. SIVATANU PILLAI** (*Tovala*): May I ask the member whether he is aware of any such instance?

**MR. G. RAMAN MENON** (*Mavelikara* cum *Kartikapalli*): I cannot quote particular instances now. Anyhow, there is no harm in recognising such marriages, because the tendency of modern times is to recognise the freedom of the individual in the matter of marriage. If marriages according to certain special ceremonies alone are recognised as legal marriages, that will be, I think, an invasion of the

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legitimate freedom of the individual. The Clause says: "The conjugal union * * * openly solemnised according to recognised custom and usage * * ". I hope that, if the community recognises marriages entered into by means of registered deeds also as valid marriages, then they will come under recognised custom and usage. But it may be a question which may have to be decided by courts of law, and we know that courts of law have been varying in their decisions upon such matters. So it is better, as far as possible, to provide a definite provision when we have got an opportunity to do so.

**MR. C. P. THOMAS** (*Nominated*): May I know from the member whether he has got any instruction from any member of the Vellala community desiring that such a provision should be made?

**MR. G. RAMAN MENON** (*Mavelikara* cum *Kartikapalli*): No. I have not made enquiries, but nobody is any way likely to be injured by that provision.

**MR. C. P. THOMAS** (*Nominated*): I want to know from the member whether any member of the Vellala community desired him to propose this provision.

**MR. G. RAMAN MENON** (*Mavelikara* cum *Kartikapalli*): I suggest it only on principle.

**MR. S. SUBRAHMANYA PILLAI** (*Co-opted*): വെള്ളാളസമുദായത്തിൽ ഉള്ള ആളിന് ആ സമുദായത്തിൽ നിന്നു മാത്രമേ വിവാഹം പാടുള്ളു എന്നു എന്റെ മാന്യസ്നേഹിതൻ ധരിച്ചിട്ടുണ്ടോ?

**MR. G. RAMAN MENON** (*Mavelikara* cum *Kartikapalli*): അതിനെ ഭേദപ്പെടുത്തീട്ടില്ല.

I regard it as a natural development, a recognition of individual rights in the matter of marriage. In the Nair Regulation also, such an amendment is necessary. Of course, I was not able to propose such an amendment because I was not a member then. So, now, when I have an opportunity, I make this suggestion. Hence the present amendment.

**DEPUTY PRESIDENT**: Does anybody second the amendment?

**MR. N. KUMARAN** (*Nominated*): I second the amendment. I do not think that it would be very long before this Council will have to consider a Civil Marriage Bill.

**MR. K. K. THOMAS** (*Kottayam*): Louder, please.

**MR. N. KUMARAN** (*Nominated*): I believe we are advancing very rapidly in several directions. No doubt the amendment that is proposed by Mr. G. Raman Menon seems to introduce some sort of innovation into the usage and custom of the Nanjanad Vellala community in respect of marriages. There is no similar provision either in the Nair Regulation or in the Ezhava Regulation, but that is not a reason for disregarding the present amendment. Because if this House is satisfied—and there is something which is satisfactory in the amendment, something



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[Mr. N. Kumaran.]

which is not going against the very principle for which we are bound to legislate for this community—I do not see any reason why this amendment should not be accepted.

**MR. M. N. PILLAI** (*Trivandrum*) : May I know from the member whether there is a similar provision in the Ezhava Regulation?

**DEPUTY PRESIDENT** : No. He has already said so.

**MR. N. KUMARAN** (*Nominated*) : I find among the Nairs and the Ezhavas several marriages taking place on the strength of registered deeds. No doubt, it is a question of contract; but that is no reason why two persons who are entitled to enter into a contract in other directions should not be allowed to enter into the contract of marriage.

**DEPUTY PRESIDENT** : Then, would it not be better to have a common law for all classes?

**MR. N. KUMARAN** (*Nominated*): I think it will be the reasonable view which this Council will have to take hereafter. Of course, if the Vellala members do not desire such an innovation, I would not press it. I second the amendment simply in order that the question may be discussed in the council.

**MR. T. KUMARA PILLAI** (*Kalkulam* cum *Vilavankod*) : ഇവിടെ ഒരു സിവിൽമാരിയേജ് ബിൽ പാസ്സാക്കുന്നതുവരെ ഈ സംസ്ഥാനത്തിന്റെ തെക്കേഅറ്റത്തു നിവസിക്കുന്ന നാഞ്ചിനാട്ടുവെള്ളാള സമുദായത്തിനു മാത്രം ഇപ്പോൾ ഒരു വ്യത്യാസം ചെയ്യേണ്ട ആവശ്യമുണ്ടെന്നു മിസ്റ്റർ കുമാരൻ വിചാരിക്കുന്നോ?

**MR. N. KUMARAN** (*Nominated*) : It is not right for my friend to say of social legislation that one principle should be followed in all cases.

**MR. S. SUBRAHMANYA PILLAI** (*Co-opted*) : വിവാഹത്തെപ്പറ്റി ഇപ്പോൾ കൊണ്ടുവന്നിരിക്കുന്നതായ പ്രമേയം ഡാക്കുമെൻറുമൂലം നടത്താം എന്നുള്ളതു ഞാൻ ഒരിക്കലും സ്വീകരിക്കുന്നില്ല.

ഞങ്ങളുടെയിടയിൽ വെള്ളാളസമുദായത്തിൽനിന്നുമാത്രമേ വിവാഹംചെയ്യാൻ പാടുള്ളൂ എന്നു ഒരു പൂർവീക നടപടിയിരിക്കുന്നതുകൊണ്ടു ആരെങ്കിലും ഒരു പുരുഷനേയോ സ്ത്രീയേയോ സ്വാധീനപ്പെടുത്തി വിവാഹം നടത്താൻ വിഷമമുണ്ടു്. അതുകൊണ്ടു ആ പ്രൊവിഷൻ ഒരിക്കലും അനുവദിക്കാൻ പാടില്ല. അതു് സമുദായത്തിനു ദോഷമാണു്.

**MR. C. P. THOMAS** (*Nominated*) : വിവാഹമോചനത്തിനു രണ്ടുപേരുടെയും സമ്മതംമാത്രം മതി എന്നുള്ളതും സമുദായത്തിനു ദോഷകരമാണോ?

**MR. S. SUBRAHMANYA PILLAI** (*Co-opted*) : വിവാഹമോചനം മേജർ ആയതിനുശേഷമാണു നടക്കുന്നതു്. അതുകൊണ്ടു ദോഷമില്ല.

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**MR. C. P. THOMAS** (*Nominated*) : സ്വന്ത സമുദായത്തിലാണെങ്കിൽ ദോഷമുണ്ടോ?

**MR. G. RAMAN MENON** (*Mavelikara cum Kartikapalli*) : അത് ഈ സെക്ഷനിൽ ഉണ്ട്.

**MR. S. SUBRAHMANYA PILLAI** (*Co-opted*) : രജിസ്റ്റർ ഉടമ്പടി മൂലമായ ള്ള ഈ ഏർപ്പാട് ഞങ്ങൾക്കാവശ്യമില്ല.

**MR. M. SIVATANU PILLAI** (*Tovala*) : I beg to oppose the amendment. I cannot really understand the spirit in which the particular amendment has been moved by my friend Mr. Raman Menon. I am rather inclined to think that the implication in marriages which obtain in our country is directly against the implication that is obtaining in the western countries. Here we look upon marriage more as a sacred tie subsisting even after death than as a contract. On the other hand, we also look down upon the implication supposed to subsist as a contractual obligation between the contracting parties to a marriage, however much it may be otherwise legal.

**MR. C. P. THOMAS** (*Nominated*) : Is this view consistent with the admission that the marriage may be dissolved by divorce as being based on contract ?

**MR. M. SIVATANU PILLAI** (*Tovala*) : What I meant to say was this. We the easterners, particularly Indians, look upon marriage more as a sacramental tie than as a contractual obligation.

**MR. C. P. THOMAS** (*Nominated*) : That is exactly what I ask. Consistently with that, how can one accept the provision regarding divorce ? There, we simply treat it as a contract.

**MR. M. SIVATANU PILLAI** (*Tovala*) : If the parties are not so particular with regard to marriage tie, they are given freedom to dissolve the marriage. So far as those people who look upon the marriage with a certain amount of sacredness are concerned, the provision sought to be introduced is not necessary. Particularly, with regard to my own community, there is no such registered marriage taking place.

**MR. N. KUMARAN** (*Nominated*) : Am I to understand that the community will not give that freedom at the beginning of the contract which is allowed in the end for annulling the same ?

**MR. M. SIVATANU PILLAI** (*Tovala*) : I do not think it is freedom nor do I think it is wholesome.

With these words, I oppose the amendment.

**MR. M. SUBRAHMANYA PILLAI** (*Agastisvaram*) : I oppose the amendment. It is distinctly *against* the sentiment of the community to regard marriage as a mere contract. I hope the House will not accept it.

**MR. M. VELU PILLAI** (*Co-opted*) : I also oppose the amendment. The community does not want it.

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MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*). As the members of the community are not welcoming it, I am not very particular about the amendment.

DEPUTY PRESIDENT: Are you withdrawing the amendment?

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): Yes, Sir, I withdraw the amendment.

DEPUTY PRESIDENT: Does the House permit him to withdraw the amendment?

The amendment was by leave withdrawn.

DEPUTY PRESIDENT: The question is that Clause 3 do form part of the Bill.

The motion was carried and the Clause was added to the Bill.

**Clause 4.**

MR. M. SUBRAHMANYA PILLAI (*Agastisvaram*): Sir, I beg to move that, in Clause 4, line 1, the words "of a male or" be deleted.

The amended clause will stand thus:

"The subsequent marriage of a female during the continuance of a prior marriage and performed after the coming into force of this Regulation shall be void.

The restriction proposed to be adopted in this Section towards the marriage of males with a view to enforce monogamy is, I think, not quite a necessary change for the community. I regard that the idea has taken shape in this Bill purely out of fashion, and not because the community found a necessity for the enforcement of monogamy. The custom in itself is a purely western custom, where the choice of the husband or wife is done by the contracting parties themselves and where man and woman have attained a high state of civilization. In an educationally backward and agricultural community like mine, it is not, I think, going to confer any standing benefit. The performance of obsequies by the son is supposed by the members of the community to be a religious necessity; and to beget children, when the first wife is barren or sickly, a second marriage for the husband is a common feature in the community. I do not find any necessity to restrict such marriages. The enforcement of monogamy has the tendency of driving pairs to take recourse to divorce, even though they are not quite willing to separate. Again, frivolous suits for divorce on the ground of adultery will increase, that being the easiest course to effect divorce; and in such suits, the weaker party, the woman, will always be worsted. The women population of this community have not attained that stage in education and civilization, that stage of independence and liberty, which would enable them to defend themselves in such suits. Then, again, when once such a suit is instituted, whether she is convicted or acquitted, her life will be doomed for ever. Considering the present condition of the women population of the community, instead of being a protection to them, it is going to be a menace to them. I am of opinion that the enforcement of monogamy will suit only those

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communities in which the women population have attained the same state of civilization as men. So I think for us it is better to wait than to rush head-long on imitations in social customs, without paying sufficient consideration to the actual condition of the society. By the provisions relating to marriage, we are making marriages sufficiently binding, the man will be responsible for the maintenance of his wife and children and consequently he will realise his responsibilities much better hereafter, and that will remove the misuse, if he has been misusing at all, of his liberty of having plurality of wives, allowed hitherto by custom. Let not this small community become more and more alienated from other Indian Hindu communities in the State. With these words, I submit the amendment for the acceptance of the House.

**MR. K. K. THOMAS** (*Kottayam*) : Is he aware of the sentiments of the community on this matter ?

**MR. M. SUBRAHMANYA PILLAI** (*Agastisvaram*) : There are some in favour of monogamy.

**MR. K. K. THOMAS** (*Kottayam*): How is the generality of opinion ? Has he read the report ?

**MR. M. SUBRAHMANYA PILLAI** (*Agastisvaram*) : Yes.

**MR. K. K. THOMAS** (*Kottayam*) : What does the report say ?

**MR. M. SUBRAHMANYA PILLAI** (*Agastisvaram*). It says that the majority of witnesses are in favour of monogamy.

**MR. M. SIVATANU PILLAI** (*Tovala*) ; As an identical motion stands in my name, I may avail myself of this opportunity to support this amendment.

**DEPUTY PRESIDENT** : A little louder, please.

**MR. M. SIVATANU PILLAI** (*Tovala*) : Perhaps the House will be rather surprised to see that, even in this subject as well, there is a very happy coincidence of views between Mr. Subrahmanya Pillai and myself. Here again, I wish to assure the House that this is a result of real conviction in me. As Mr. Thomas was vehemently protesting against any restriction in regard to marriage, I think he will be ardently prepared and will support me in this amendment not to restrict marriage at all. In the first place, soon after the Bill becomes Regulation, the community is to adopt the *makkathayam* system of inheritance. If that be the real result, we will have to see whether, in any other community which follows more or less the same system of inheritance, for example, the other sections of the Hindu community who follow the Hindu Law of inheritance according to which monogamy is not at all in force, sufficient provision is made for the instinct to have its full play and to show the expression of its affection to children. Certainly it will be only natural for a man to restrict dispelling all his energy as well and his acquiring power. So also when the community begins to adopt the *makkathayam* system of inheritance, it is for both parents to look after zealously the interest of the persons concerned. If the rights are restricted, I believe there will be no danger in allowing a plurality of wives, that

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[Mr. M. Sivatanu Pillai.]

is to say, in the case of the Brahmin community or the *makkathayam* Vellala community who follow the *Makkathayam* system of inheritance though they are not restricted by law to monogamy, nevertheless, as a general case, we do not come across cases where males have taken more than one wife. So it stands to reason as well as to experience that there should be no restriction at all in regard to polygamy. With these words, I support the amendment.

**MR. C. P. TARAKAN** (*Kunnatnad*): ബില്ലിലെംരംവകുപ്പിനെസംബന്ധിച്ചുനാഞ്ചിനാട്ടു വെള്ളാളസമുദായം ശക്തിമത്തായ ഒരു പ്രതിഷേധം രേഖപ്പെടുത്തിയിട്ടുള്ളതായിഅറിയാമോ?

**MR. M. SIVATANU PILLAI** (*Tovala*): ഉണ്ടെന്നാണ് തോന്നുന്നത്.

**MR. C. P. TARAKAN** (*Kunnatnad*): ആരാണ്?

**MR. M. SIVATANU PILLAI** (*Tovala*): ഞാൻതന്നെ എന്റെ ഒരു പെറ്റീഷനിൽ ഡിപ്ലൂട്ടേഷനെപറ്റി പ്രസ്താവിച്ചിട്ടുണ്ട്.

**MR. C. P. TARAKAN** (*Kunnatnad*): മിസ്റ്റർ ശിവതാണുപിള്ളയല്ലാതെ നാഞ്ചിനാട്ടു വെള്ളാളസമുദായത്തിൽ നിന്നും ആരെങ്കിലും ബില്ലിലെ ഒരംഭാഗത്തെപറ്റി ആക്ഷേപിച്ചിട്ടുണ്ടോ?

**MR. M. SIVATANU PILLAI** (*Tovala*): ധാരാളം ഉണ്ട്. പെറ്റിഷൻ മുഖേനയും മെമ്മോറിയൽ മുഖേനയും ആക്ഷേപിച്ചിട്ടുണ്ട്. സിലക്ട് കമ്മിറ്റിയിൽവന്ന ഡിപ്ലൂട്ടേഷൻതന്നെ അതിനെപറ്റി പറയുകയുണ്ടായി.

**MR. K. P. NILAKANTA PILLAI** (*Chirayinkil*): May I know the approximate number of males and females in the community?

**MR. M. SIVATANU PILLAI** (*Tovala*): I think it is a rather difficult question to answer. Anyhow, I think the females are greater in number and I believe that is the case with respect to the other communities as well.

**MR. K. K. THOMAS** (*Kottayam*): Sir, I have been listening to the speeches made by Mr. Subrahmanya Pillai and Mr. Sivatanu Pillai, and I regret they have not been able to enlighten us as to the sense of the community, with regard to the particular question as to allowing monogamy or allowing polygamy; it is seen from the report that the evidence is greatly in favour of enforcing monogamy. I am reading the report:

"Enlightened public opinion in the community, however, would insist on monogamy; while several witnesses are of opinion that under certain conditions a man should be allowed to marry a second wife during the subsistence of the first marriage. They are in favour of creating exceptions to the strict rule of monogamy in cases where the wife is suffering from an incurable disease, or mental infirmity and is physically unfit for the duties of wife; when she is barren, has changed her religion or leads an unchaste life. In the above view

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for exemption from the rigid observance of monogamy, the spell of Hindu law will be found to remain unbroken. Some witnesses pertinently pointed out that the marriage law should give equal privileges and impose identical restrictions on both the sexes. This would lead, if the claims for exemption were extended to women, to polyandry which does not obtain in the community and is vehemently denounced and abhorred by all alike. To allow the exceptions mentioned above would inevitably tend to detract from the binding nature of the marriage tie which it is the aim of the community generally to strengthen. Allegations of incurable disease are easily made, but it would be difficult to establish the contention in a court of law; and it is not clear whether a decree on the point should be made a condition precedent to the second marriage of the man. Barrenness may be due to a variety of causes and there is no guarantee that a second wife would give an issue. It is usual for a childless man's obsequies being performed by his brother's children and their efficacy has not been questioned. An issueless pair can also adopt. Medical opinion is not unanimous as to when a woman can be said to have passed the child-bearing age and law can hardly define how long a man should wait in order to contract a second marriage. Conversion of the wife to another religion should give the husband freedom to divorce her, instead of operating as a ground for a second marriage. Divorce again is the proper remedy for a man whose wife leads an adulterous life. The reasons urged before the Committee do not warrant their supporting any deviation from the strict observance of monogamy. Physiological, social, hygienic and economic considerations all uphold the principle of monogamy. The Committee are, therefore, of the decided opinion that this should be enforced by law and the breach of it made penal."

When a committee dispassionately considered this question and called in a number of important witnesses and collected their opinion and came to the conclusion that monogamy should be insisted on, I think this Council will not be justified in allowing polygamy unless our friends are able to show more tangible proof about the sense of the community. As it is, we see from the diverse opinions in this House as well as in the report that the community is not for it, and I for one would not be a party to allow polygamy.

**MR. M. SIVATANU PILLAI** (*Tovala*): Is he prepared to give retrospective effect to this ?

**MR. K. K. THOMAS** (*Kottayam*): No.

**MR. M. SUBRAHMANYA PILLAI** (*Agastisvaram*): Is he aware that this is going to be enforced on an unwilling community?

**MR. K. K. THOMAS** (*Kottayam*): There is the "enlightened opinion" mentioned in the report.

**MR. S. SUBRAHMANYA PILLAI** (*Co-opted*): ബഹു ഭാര്യാത്വം ഞങ്ങളുടെയിടയിൽ ധാരാളം നടന്നുവരുന്നതുകൊണ്ട് അതിനെ നിയമത്താൽ ബന്ധിക്കാൻപാടില്ല. ദ്വിഭർതൃത്വം എന്നുള്ളതു നടപ്പില്ലാത്തതാണ്. അതുകൊണ്ട് ദ്വിഭർതൃത്വം ഒരിക്കലും ഉണ്ടാകയില്ല. ബഹുഭാര്യാത്വം ആവശ്യമാണ്.

**MR. M. SUBRAHMANYA PILLAI** (*Co-opted*): ബഹു ഭാര്യാത്വത്തെ മെമ്പർ അനുകൂലിക്കുന്നോ?

**DEPUTY PRESIDENT**: He supports the amendment.

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**MR. M. VELU PILLAI** (*Co-opted*): I oppose the amendment. The matter was considered by the Committee and they have come to a unanimous conclusion. Mr. Thomas has referred to the opinion which is recorded here.

"Physiological, social, hygienic and economic considerations all uphold the principle of monogamy. The Committee are therefore of the decided opinion that this should be enforced by law and the breach it made penal."

I quite agree with that and I oppose the amendment.

**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*): So far as the Government are concerned, they are neutral in the matter. I therefore leave it entirely to the sense of the House.

**MR. G. PARAMESVARAN PILLAI** (*Neyyattinkara*): I also oppose Mr. Subrahmanya Pillai's amendment. So far as the sentiments and views of the community are ascertainable from the Enquiry Committee's Report as well as from the decision arrived by the Select Committee after hearing the deputation that is said to have waited upon them, the community or a large section of the community is unmistakably in favour of monogamy being enforced. I find from the report that about 280 witnesses are in favour of monogamy being enforced subject to certain limitations, while only 18 are for polygamy being continued. In view of the preponderance of opinion against polygamy being continued, I am certain that this House will not be justified in accepting this amendment. I may also state—although it is not quite relevant—that, in regard to other social measures we have passed, namely the Nair Regulation and the Ezhava Regulation, polygamy is disapproved by this House. Especially in view of the sacredness of marriage referred to by my friends Mr. Sivatanu Pillai and Mr. Subrahmanya Pillai, when they dwelt at length upon some of the previous amendments, I certainly think it comes with ill grace, an amendment of this kind, from them. I therefore strongly oppose the amendment.

**MR. T. J. MATTHEW** (*Changanachery* cum *Peermade*): I also oppose the amendment. Yesterday, when Mr. Subrahmanya Pillai moved his amendment that the whole Bill should be recommitted to another Select Committee, I understood him to say that the main point of his objection was only with reference to partition and that the other questions were considered of minor importance. I believe that he himself is not very particular about this amendment being carried. I think much argument is not necessary in regard to the benefits arising from monogamy. This House, as Mr. G. Paramesvaran Pillai has expressed, has more than once approved monogamy. I therefore oppose the amendment.

**MR. M. SUBRAHMANYA PILLAI** (*Agastisvaram*): I have not much to say by way of reply. I should like to know what the sense of the House is on this question.

**DEPUTY PRESIDENT**: Do you press the amendment to the vote of the House?

**MR. M. SUBRAHMANYA PILLAI** (*Agastisvaram*): Yes.

The amendment was put to the vote and lost.

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**MR. S. PIRAVIPERUMAL PILLAI** (*Commerce and Industry, South*): Sir, I demand a poll.

A poll was taken with the following result:

AYES—10.

1. Mr. C. Kerala Varma Koil Tampuran.
2. ,, K. Narayanan Pandalay.
3. ,, K. V. Natesa Aiyar.
4. ,, M. N. Pillai.
5. ,, S. Piraviperumal Pillai.
6. Rao Bahadur K. V. Rangaswami Aiyangar.
7. Mr. M. Sivatanu Pillai.
8. ,, S. Subrahmanya Karayalar.
9. ,, M. Subrahmanya Pillai.
10. ,, S. Subrahmanya Pillai.

NOES—25.

1. Mr. I. C. Chacko.
2. ,, K. George.
3. ,, P. Habeeb Mahomed.
4. ,, K. I. Joseph
5. ,, N. V. Joseph.
6. ,, S. Gnana Joshua.
7. ,, A. K. Pillai.
8. ,, N. Kumaran.
9. ,, T. Kumara Pillai.
10. Dr. N. Kunjan Pillai.
11. Mr. Tariatu Kunjitomman.
12. ,, X. G. Lopez.
13. ,, K. Madhavan Pillai.
14. Mr. K. C. Mammen Mappillai.
15. ,, T. J. Matthew.
16. ,, A. J. John.
17. ,, G. Paramesvaran Pillai.
18. ,, T. P. Ramasubba Aiyar.
19. ,, G. Raman Menon.
20. ,, Sivarama Panikkar.
21. ,, C. P. Tarakan.
22. ,, C. P. Thomas.
23. ,, K. K. Thomas.
24. ,, C. N. Tuppan Nambutiri.
25. ,, M. Velu Pillai.

NEUTRAL—11.

1. Mr. J. B. Cook.
2. ,, R. Dhanukoti Pillai.
3. ,, C. P. Kochukunju Pillai.
4. ,, Kallur Narayana Pillai.
5. ,, K. P. Nilakanta Pillai.
6. ,, N. Nilakanta Pillai.
7. Mr. R. Padmanabhan.
8. ,, Kayyalam Paramesvaran Pillai.
9. ,, S. C. H. Robinson.
10. ,, J. Stephenson.
11. ,, A. J. Van Ross.

The amendment was declared lost.

**DEPUTY PRESIDENT**: The next amendment being identical with the previous one cannot be moved.

The following amendment was accordingly not moved:

MR. M. SIVATANU PILLAI:

Line 1. Delete the words "of a male or".

**DEPUTY PRESIDENT**: The question is that Clause 4 stand part o the Bill.

The motion was carried and the Clause was added to the Bill.



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**Clause 5.**

**MR. C. P. TARAKAN** (*Kunnatnad*) : I beg to move the following amendment :

*Sub-clause* (ii). *Substitute the word "or" for the word "for".*

**DEPUTY PRESIDENT** : I think it is a printer's mistake and it may be corrected.

The following amendment was not moved.

MR. M. SUBRAHMANYA PILLAI :

Delete sub-clause (iii) (b) and re-number the subsequent clauses.

**MR. C. P. TARAKAN** (*Kunnatnad*) : I beg to move the following amendment :

*Sub-clause* (iii) (*e*). *Add the word "or" after the word "wife" at the end and add the following :*

*"(f) wilful desertion for a period of five years or more".*

**DEPUTY PRESIDENT** : Will this not come under the head of 'habitual cruelty' ?

**MR. C. P. TARAKAN** (*Kunnatnad*) : If so, I have no objection to withdraw the amendment.

**MR. M. SIVATANU PILLAI** (*Tovala*) : I second the amendment.

**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*) : The Government have nothing to say on this matter. I leave it to the House.

**MR. G. PARAMESVARAN PILLAI** (*Neyyattinkara*) : May I know whether there is any similar provision in the Nair Regulation ?

**DEPUTY PRESIDENT** : There is a provision. Would it not be better, Mr. Tarakan, to adopt the provisions of the Nair Regulation where, I believe, desertion is supposed to be habitual cruelty ?

**MR. C. P. TARAKAN** (*Kunnatnad*) : But there is an explanation provided in the Nair Regulation.

**DEPUTY PRESIDENT** : Why not you put it in this Bill also as an explanation ?

**MR. C. P. TARAKAN** (*Kunnatnad*) : I have no objection.

**DEPUTY PRESIDENT** : Then, will you please move it formally ? This is what you find in Section 7 (3) of the Nair Regulation :

" 'Habitual cruelty' shall include wilful desertion for a period of two years or more and shall also include persistent neglect on the part of the husband to maintain the wife."

**MR. C. P. TARAKAN** (*Kunnatnad*) : An explanation of that kind will be enough.

**DEPUTY PRESIDENT** : Are you moving it as an amendment ?

**MR. C. P. TARAKAN** (*Kunnatnad*) : I move the following amendment : Add the following explanation at the end of clause 5 ; —

*"Explanation.—'Habitual cruelty' shall include wilful desertion for a period of two years or more and shall also include persistent neglect on the part of the husband to maintain the wife."*

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**MR. M. SUBRAHMANYA PILLAI** (*Agastisvaram*): I second the amendment.

**MR. K. K. THOMAS** (*Kottayam*): May I say that the number of years may be altered to five years?

**DEPUTY PRESIDENT**: Do you not think it will be better if we are consistent in this, because the words are 'wilful desertion.'

**MR. K. K. THOMAS** (*Kottayam*): I think five years may be put in.

**MR. G. PARAMESVARAN PILLAI** (*Neyyattinkara*): I support the amendment of Mr. C. P. Tarakan.

**MR. M. VELU PILLAI** (*Co-opted*): I second the motion of Mr. K. K. Thomas for putting the period as five years.

The amendment of Mr. K. K. Thomas that the period be five years was put and lost, and the original amendment of Mr. C. P. Tarakan was put and carried.

**DEPUTY PRESIDENT**: The question is that Clause 5 as amended form part of the Bill.

The motion was carried and the Clause as amended was added to the Bill.

**Clauses 6 to 8**

The question that Clauses 6 to 8 as settled by the Select Committee form part of the Bill was then put and carried.

The Clauses were added to the Bill.

**Clause 9.**

**MR. C. P. TARAKAN** (*Kunnatnad*): I move the following amendment:

Add the following as proviso to the clause:

"*Provided that all proceedings under this Section, either before a court or before a commission appointed by a court, shall be held* in camera *and that the publication of any account of such proceedings except the final order and the decree thereon shall be punishable with simple imprisonment for a term of six months or with fine which may extend to Rs. 1,000 or both.*"

ഡൈവോർസ് സംബന്ധിച്ച വ്യവഹാരങ്ങൾ കോടതിയിൽ നടക്കുമ്പോൾ ഇങ്ങനെ ഒരു നിബന്ധന അത്യാവശ്യമാണെന്നാണ് എന്റെ അഭിപ്രായം. അതിനാൽ ഇതു സഭയുടെ അംഗീകരണത്തിനായി സമർപ്പിച്ചുകൊള്ളുന്നു.

**MR. M. VELU PILLAI** (*Co-opted*): I second the amendment moved by Mr. Tarakan.

**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*): I have no objection to this principle being accepted, but there may be some practical difficulties. This Bill applies only to Nanjanad Vellalas and the object of the provision is to prohibit everybody, whether they be Vellalas or non-Vellalas, from publishing such proceedings,

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[Mr. Kayyalam Parameswaran Pillai.]

As it stands, therefore, the prohibition will apply only to Vellalas to whom alone the Bill applies. Secondly, the provision refers to publication. Publication is a very wide term; and, if I understand correctly, the member has in mind publication in newspapers only or some such publication.

**MR. C. P. TARAKAN** (*Kunnatnad*): നായർ റഗുലേഷനിൽ ഇങ്ങനെ ഒരു പ്രൊവിഷൻ ഉള്ളതായി അറിയാമോ?

**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*): അറിയാം. അതുകൊണ്ടാണ് ഇപ്പോഴിത് പറയാനിടയായത്.

**MR. G. PARAMESVARAN PILLAI** (*Neyyattinkara*): May I ask how he would amend the section? What is his constructive suggestion?

**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*): So far as "publication" is concerned "publication as news whether in newspapers or otherwise" may be put in. And—

**MR. G. PARAMESVARAN PILLAI** (*Neyyattinkara*): May I know how that will obviate the difficulty pointed out by him that it will be only applicable to Nanjinad Vellalas?

**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*): That relates to the first part of my objection. The first section relating to the applicability of the Regulation will have also to be amended in such a way that the new provision shall apply to everybody.

**MR. A. K. PILLAI** (*Karunagapalli*): What is the difficulty he has in mind? Will he please explain his difficulty?

**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*): As it stands, if a Christian or a Nair publishes the proceedings, he will not be liable to punishment as the Regulation does not apply to him. All that is intended to be prohibited is publication as news. Otherwise, communication by a Vakil engaged in the case or statement of the proceedings in an Appellate Court will also be publication and will make him liable to punishment.

**DEPUTY PRESIDENT**: Is it not reasonable to suppose that the paper will not publish the proceedings, whether it be a Christian or Nair or any other paper?

**MR. G. PARAMESVARAN PILLAI** (*Neyyattinkara*): May I ask whether a reasonable interpretation will not be put upon it when a question arises in a court of law?

**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*): Yes. But when a penal provision is made, the accused can raise all sorts of objections such as, that the Section will not apply to him as there is no express provision to make it applicable to him. So I suggest that the Clause be so worded as not to give rise to such difficulties.

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**MR. G. PARAMESVARAN PILLAI** (*Neyyattinkara*): Suppose the account is published not as news but merely as a subject of of discussion among people, will it not still be objectionable ?

**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*): The House may consider such cases as well. I thought that publication in newspapers, that is to say, publication merely as news alone was sought to be prohibited.

**MR. G. PARAMESVARAN PILLAI** (*Neyyattinkara*): As an instance, may I point out a case where by malice or otherwise somebody publishes the proceedings though the publication may not be intended as news ?

**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*): If the House thinks that such a case may occur, then suitable provisions may be made for that also. All that I thought of was publication as news.

**DEPUTY PRESIDENT**: Publication in writing ?

**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*): Publication even orally, but only as news. Otherwise it may so happen that a junior Vakil may have to mention the facts to a senior. That may also be publication.

**DEPUTY PRESIDENT**: Don't you think it will be difficult to distinguish between these cases ?

**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*): We can leave it to the Court.

**MR. G. PARAMESVARAN PILLAI** (*Neyyattinkara*): Will it not be better to make some definite provision whereby the intention of the Legislature may be made clear ?

**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*): A proviso of the following nature may be added :

"Notwithstanding anything contained in section 1, sub-section (2), this section shall apply to everybody," or something of the sort.

I do not deny that this is exactly the provision contained in the Nair Regulation, and it may, if the House so desires, be allowed to pass as it stands as the benefit or the disability will be alike in the Nair Regulation and in this Regulation.

**DEPUTY PRESIDENT**: To me there seems to be one difficulty. Mr. Tarakan has taken the wording evidently from the Nair Regulation. In the Nair Regulation, there is only one Section connected with this. So I think an amendment on that basis will not suit the Nanjinad Vellala Bill. Clause 6 is about the presentation of petitions.

**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*): As far as the *enquiry* is concerned, there is only one Section in this Bill. That is Section 8. Probably it has to be so modified to suit this Bill.

**DEPUTY PRESIDENT**: There the provision is put in as a proviso.

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**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*) : The provision in Section 9 is this :

"The provisions contained in the Code of Civil procedure, shall, as far as possible, apply to an enquiry under section 8."

"In the amendment he speaks of "this section". "This" would refer to 'Section 9."

**DEPUTY PRESIDENT** : It must be "Section 8." Mr. Tarakan, you will have to substitute the words "section 8" for "this section".

**MR. C. P. TARAKAN** (*Kunnatnad*) : I accept that amendment.

The amendment of Mr. Tarakan as modified was put to the vote and carried.

The question that Clause 9 as amended form part of the Bill was then put and carried.

The Clause was added to the Bill.

**Clause 10 to 16.**

The question that clauses 10 to 16 form part of the Bill was then put and carried.

The Clauses were added to the Bill.

**Clause 17.**

The following amendment was not moved :

MR. M. SUBRAHMANYA PILLAI :

Lines 3 and 8. Substitute the word "father" for the word "mother" in both places.

The question that clause 17, as settled by the Select Committee, form part of the Bill, was then put and carried.

The Clause was added to the Bill.

**Clause 18.**

The following amendment was not moved :

MR. M. SUBRAHMANYA PILLAI :

Line 3. Substitute the word "father" for the word "mother" occuring in two places.

The question that Clause 18 form part of the Bill was then put and carried.

The Clause was added to the Bill.

**Clause 19.**

The following amendments were not moved :

MR. M. SUBRAHMANYA PILLAI :

Line 2. Substitute the word "father" for the word "mother".

MR. M. SUBRAHMANYA PILLAI

Line 3. Substitute the word "mother" for the word "father" occuring in two places.

The question that Clause 19 form part of the Bill was then put and carried.

The Clause was added to the Bill.

**Clause 20.**

The following amendment was not moved :

MR. M. SUBRAHMANYA PILLAI :

Line 2. Substitute the word "father's" for the word "mother's".

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The question that clause 20 form part of the Bill was then put to the vote and carried.

The Clause was added to the Bill.

**Clauses 21 and 22.**

The question that clauses 21 and 22 do form part of the Bill was then put and carried.

The Clauses were added to the Bill.

**Clause 23.**

The following amendments were not moved :

MR. M. SUBRAHMANYA PILLAI

Line 4. Insert the word "mother and in her mother's absence on her" between "her" and "mother's".

MR. M. SUBRAHMANYA PILLAI :

Line 5. Insert the words "mother and her" between the words "of her" and "mother's".

The question that clause 23 do form part of the Bill was then put and carried.

The Clause was added to the Bill.

**Clause 24.**

The question that clause 24 as settled by the Select Committee do form part of the Bill was then put and carried.

The Clause was added to the Bill.

**Clause 25.**

The following amendment was not moved :

MR. M. SUBRAHMANYA PILLAI :

Line 4. Substitute the words "Section 23" for the words "Sections 20 and 23".

The question that clause 25, as settled by the Select Committee, do form part of the Bill was then put and carried.

The Clause was added to the Bill.

**Clause 26.**

The following amendment was not moved ;

MR. M. SUBRAHMANYA PILLAI :

Delete Clause 26.

The question that clause 26, as settled by the Select Committee, do form part of the Bill was then put and carried.

The Clause was added to the Bill.

**Clauses 27 to 30**

The question that clauses 27 to 30 as settled by the Select Committee do form part of the Bill was then put and carried.

The Clauses were added to the Bill.

**Clause 31.**

**MR. M. SUBRAHMANYA PILLAI** (*Agastisvaram*) : With regard to clause 31 and the rest of the Bill, I would request the Chair to adjourn consideration of these clauses.

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**DEPUTY PRESIDENT**: Then please make a motion to that effect. Please move for the postponement of clause 31 and the remaining clauses till tomorrow. I do not think there will be time enough to draft an amendment to these clauses now. Please make a formal motion to that effect.

**MR. M. SUBRAHMANYA PILLAI** (*Agastisvaram*): I beg to move that the further consideration of the Bill be postponed till tomorrow.

**MR. T. J. MATTHEW** (*Changanachery* cum *Peermade*): I second the motion.

The motion for adjourning the consideration of the remaining clauses was carried.

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## THE TRAVANCORE MINES AND MINERALS BILL.

**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*): Sir, I beg to move that the Travancore mines and minerals Bill may be taken up now. With regard to this Bill, the Select Committee was appointed in the first session of 1099. But between that time and now the second session of 1099 and the first session of 1100 have passed. Since the last motion relating to the Bill, more than two sessions have passed; and under Standing Order No. 4, the Bill must therefore be taken to have lapsed unless this Council orders its continuance. I therefore move that the Council permit the continuance of the Bill.

**MR. N. NILAKANTA PILLAI** (*Secretary to Government on other duty*): I second the motion.

**DEPUTY PRESIDENT**: May I take it that the House permits the continuance of the Bill?

The motion was carried.

**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*): I move that the Bill be referred to a Select Committee consisting of (1) Mr. I. C. Chacko, the member who should be included under the Standing Orders; (2) Mr. A. J. Van Ross; (3) Mr. P. K. Narayana Pillai who was a member on the last committee, (4) Mr. G. Paramesvaran Pillai and (5) myself.

**DEPUTY PRESIDENT**: Does the House accept the proposal of Mr. Kayyalam Paramesvaran Pillai?

**MR. KAYYALAM PARAMESVARAN PILLAI** (*Ag. Additional Head Sirkar Vakil*): I will also add Mr. Dhanukoti Pillai and Mr. T. Kumara Pillai.

**MR. T. P. RAMASUBBA AIYAR** (*Secretary to Government*): I second the motion.

**DEPUTY PRESIDENT**: Does the House accept the proposal?

**MR. A. K. PILLAI** (*Karunagapalli*): Names, please.

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